

AMENDED IN SENATE MAY 5, 1998
AMENDED IN SENATE APRIL 28, 1998
AMENDED IN SENATE APRIL 15, 1998
AMENDED IN SENATE MARCH 26, 1998

SENATE BILL

No. 1679

Introduced by Senator Kopp

February 17, 1998

An act to amend Sections 487, 487b, 487c, 487e, and 487f of, to add ~~Section 486.5~~ *Sections 486.5 and 1170.5* to, and to amend and repeal Section 1001.65 of, the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1679, as amended, Kopp. Crimes.

(1) Under existing law, theft is divided into 2 degrees, the first of which is grand theft and the 2nd is petty theft. Existing law defines grand theft as theft committed when the money, labor, or real or personal property taken is of a value exceeding \$400 except in specified cases where the value of a crop or other harvested product or domestic fowl exceeds \$100, where a servant, agent, or employee take property exceeding \$400 over a 12-month period, when the property is taken from the person of another, and when the property taken is an automobile, firearm, or a specified animal. Existing law likewise provides that grand theft occurs where a person converts real estate of the value of \$100 or more into personal

property by severance from the realty of another, with specified intent, or when a person feloniously steals, takes, or carries away a dog of another that is of a value exceeding \$400. Under existing law, theft in other cases is petty theft.

This bill instead would make the value \$750 in those cases where the value is \$400 under existing law and \$200 where the value is \$100. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) The bill also would require the Department of Finance to calculate adjustments to the above monetary amounts as a result of changes in the cost of living every 5 years based on figures provided by the Department of Industrial Relations and to submit a report containing the computations to the Legislature on or before January 15, 2004, and every 5 years thereafter.

(3) *Under existing law, the Legislature finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.*

This bill would require that the term of imprisonment for any person who is sentenced to be imprisoned in the state prison for a term of 100 years or more be interpreted as a term of life without the possibility of parole.

(4) Existing law, operative until January 1, 1999, establishes a bad check diversion program that may be created within the office of the district attorney in a county that adopts the program. Existing law authorizes the district attorney to collect a fee of up to \$35, in addition to the actual amount of any bank charges incurred by the victim, if his or her office collects and processes a bad check. Under existing law, when a criminal complaint is filed in a bad check case after conviction if the maker of the check fails to comply with the terms of the bad check diversion program, the court is authorized to impose a fee for the collection and processing of a bad check by the district attorney of not more than \$25 in addition to the actual amount of any bank charges incurred by the victim, not to exceed \$1,000. Existing law also requires



the Judicial Council to prepare and submit a report on the effect of this provision, as specified.

This bill would delete the operative date and repeal the provision that restores existing law.

~~(4)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(5)~~

(6) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 486.5 is added to the Penal Code,
2 to read:

3 486.5. Beginning January 1, 2005, and every five years
4 thereafter, the Department of Finance shall calculate the
5 adjustments to the monetary amounts that distinguish
6 between grand and petty theft set forth in Sections 487,
7 487b, 487c, 487e, and 487f to reflect any increases or
8 decreases in the cost of living. The adjusted monetary
9 amounts shall be calculated by the department in
10 accordance with all of the following steps:

11 (a) On or before August 1, 2003, and every five years
12 thereafter, the Department of Industrial Relations shall
13 transmit to the Department of Finance the percentage
14 change in the California Consumer Price Index for the
15 five-year period ending on January 1 of the year
16 preceding the year for which the adjustment is to take
17 effect.

18 (b) The Department of Finance shall compute an
19 adjustment factor by adding 100 percent to the
20 percentage change figure that is provided to the

1 department pursuant to subdivision (a) and dividing the
2 result by 100.

3 (c) The Department of Finance shall multiply the
4 adjustment factor determined pursuant to subdivision
5 (b) by the monetary amounts in Sections 487, 487b, 487c,
6 487e, and 487f operative in January of the year preceding
7 the year in which the adjustments are to occur and the
8 product shall be rounded to the nearest dollar. The
9 resultant amounts shall constitute the new monetary
10 amounts to be used by the Legislature in amending
11 Sections 487, 487b, 487c, 487e, and 487f.

12 (d) The Department of Finance shall submit to the
13 Legislature on or before January 15, 2004, and every five
14 years thereafter, a report containing the figures
15 computed pursuant to subdivision (c).

16 SEC. 2. Section 487 of the Penal Code is amended to
17 read:

18 487. Grand theft is theft committed in any of the
19 following cases:

20 (a) When the money, labor, or real or personal
21 property taken is of a value exceeding seven hundred
22 fifty dollars (\$750), except as provided in subdivision (b).

23 (b) Notwithstanding subdivision (a), grand theft is
24 committed in any of the following cases:

25 (1) (A) When domestic fowls, avocados, olives, citrus
26 or deciduous fruits, other fruits, vegetables, nuts,
27 artichokes, or other farm crops are taken of a value
28 exceeding two hundred dollars (\$200).

29 (B) For the purposes of establishing that the value of
30 avocados or citrus fruit under this paragraph exceeds two
31 hundred dollars (\$200), that value may be shown by the
32 presentation of credible evidence which establishes that
33 on the day of the theft avocados or citrus fruit of the same
34 variety and weight exceeded two hundred dollars (\$200)
35 in wholesale value.

36 (2) When fish, shellfish, mollusks, crustaceans, kelp,
37 algae, or other aquacultural products are taken from a
38 commercial or research operation which is producing
39 that product, of a value exceeding two hundred dollars
40 (\$200).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates seven hundred fifty dollars (\$750) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is an automobile, firearm, horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig.

(e) This section shall become operative on January 1, 1997.

SEC. 3. Section 487b of the Penal Code is amended to read:

487b. Every person who converts real estate of the value of two hundred dollars (\$200) or more into personal property by severance from the realty of another, and with felonious intent to do so, steals, takes, and carries away the property is guilty of grand theft and is punishable by imprisonment in the state prison.

SEC. 4. Section 487c of the Penal Code is amended to read:

487c. Every person who converts real estate of the value of less than two hundred dollars (\$200) into personal property by severance from the realty of another, and with felonious intent to do so steals, takes, and carries away the property is guilty of petit theft and is punishable by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

SEC. 5. Section 487e of the Penal Code is amended to read:

487e. Every person who feloniously steals, takes, or carries away a dog of another which is of a value exceeding seven hundred fifty dollars (\$750) is guilty of grand theft.

SEC. 6. Section 487f of the Penal Code is amended to read:

1 487f. Every person who feloniously steals, takes, or
2 carries away a dog of another which is of a value not
3 exceeding seven hundred fifty dollars (\$750) is guilty of
4 petty theft.

5 SEC. 7. Section 1001.65 of the Penal Code, as
6 amended by Section 1 of Chapter 996 of the Statutes of
7 1996, is amended to read:

8 1001.65. (a) A district attorney may collect a fee if his
9 or her office collects and processes a bad check. The
10 amount of the fee shall not exceed thirty-five (\$35) for
11 each bad check in addition to the actual amount of any
12 bank charges incurred by the victim as a result of the
13 offense.

14 (b) Notwithstanding subdivision (a), when a criminal
15 complaint is filed in a bad check case after the maker of
16 the check fails to comply with the terms of the bad check
17 diversion program, the court, after conviction, may
18 impose a bad check collection fee for the collection and
19 processing efforts by the district attorney of not more
20 than thirty-five (\$35) for each bad check in addition to
21 the actual amount of any bank charges incurred by the
22 victim as a result of the offense, not to exceed one
23 thousand dollars (\$1,000) in the aggregate. The court also
24 may, as a condition of probation, require a defendant to
25 participate in and successfully complete a check writing
26 education class. If so required, the court shall make
27 inquiry into the financial condition of the defendant and,
28 upon a finding that the defendant is able in whole or part
29 to pay the expense of the education class, the court may
30 order him or her to pay for all or part of that expense.

31 (c) If the district attorney elects to collect any fee for
32 bank charges incurred by the victim pursuant to this
33 section, that fee shall be paid to the victim for any bank
34 fees that the victim may have been assessed. In no event
35 shall reimbursement of a bank charge to the victim
36 pursuant to subdivision (a) or (b) exceed ten dollars
37 (\$10) per check.

38 (d) On or before January 1, 1998, the Judicial Council
39 shall prepare a report on the effect of the amendments to
40 this section enacted at the 1995–96 Regular Session of the

1 Legislature, and submit that report to the Senate and
2 Assembly Judiciary Committees.

3 SEC. 8. Section 1001.65 of the Penal Code, as added by
4 Section 1.4 of Chapter 996 of the Statutes of 1996, is
5 repealed.

6 SEC. 9. *Section 1170.5 is added to the Penal Code, to*
7 *read:*

8 *1170.5. The term of imprisonment for any person who*
9 *is sentenced to be imprisoned in the state prison for a*
10 *term of 100 years or more shall be interpreted as a term*
11 *of life without the possibility of parole.*

12 SEC. 10. No reimbursement is required by this act
13 pursuant to Section 6 of Article XIII B of the California
14 Constitution because the only costs that may be incurred
15 by a local agency or school district will be incurred
16 because this act creates a new crime or infraction,
17 eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section
19 17556 of the Government Code, or changes the definition
20 of a crime within the meaning of Section 6 of Article
21 XIII B of the California Constitution.

22 Notwithstanding Section 17580 of the Government
23 Code, unless otherwise specified, the provisions of this act
24 shall become operative on the same date that the act
25 takes effect pursuant to the California Constitution.

26 ~~SEC. 10.~~

27 SEC. 11. This act is an urgency statute necessary for
28 the immediate preservation of the public peace, health,
29 or safety within the meaning of Article IV of the
30 Constitution and shall go into immediate effect. The facts
31 constituting the necessity are:

32 In order to prevent the ever-present danger to public
33 safety posed by a person bringing or possessing a weapon
34 in a polling place, it is necessary that this act take effect
35 immediately.